

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|------------------------------|---|--------------------------|
| DENNIS MCKEITHAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | Civil Action No. 06-965 |
| JEFFREY BEARD, SECRETARY OF |) | Judge Lancaster |
| CORRECTIONS, <i>et al.</i> , |) | Magistrate Judge Caiazza |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

Dennis McKeithan's civil rights complaint was received by the Clerk of Court on July 21, 2006, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

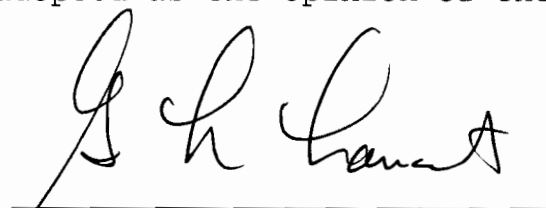
The Magistrate Judge's report and recommendation, filed on May 10, 2007, recommended that the motion to dismiss by defendants L. Yarcgwer, C. Myers, Dr. Herbick be granted with respect to all claims except for the claim that Dr. Herbick failed to treat the Plaintiff's pulmonary condition. The parties were allowed ten days from the date of service of the report to file objections. The Plaintiff filed objections on May 31, 2007 (Doc. 76).

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 6th day of June, 2007,

IT IS HEREBY ORDERED that the motion to dismiss by defendants L. Yarcgwer, C. Myers, Dr. Herbick (Doc. 36) is GRANTED with respect to all claims except for the claim that Dr. Herbick failed to treat the Plaintiff's pulmonary condition.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 69), dated May 10, 2007, is adopted as the opinion of the court.



Gary L. Lancaster
U.S. District Court Judge

cc:
DENNIS MCKEITHAN L2-15
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Box 9999
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